



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document(s) Reviewed (include title): **WAC 458-20-106, Casual or isolated sales -- Business reorganizations**

Date last reviewed: **June 29, 1998**

Reviewer: **Gilbert Brewer**

Date current review completed: **April 30, 2003**

Briefly explain the subject matter of the document(s): **WAC 458-20-106 explains the application of B&O, retail sales, and use taxes to casual or isolated sales and to business reorganizations.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
	X	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)



	X	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
X		Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

- **The prior review of this rule suggested that Audit Directive 8106.1 should be incorporated into the rule. This document was superseded by Audit Directive 8106.1A, which in turn was canceled due to a conflict with 14 WTD 054. The rule should incorporate the holding of the determination, not either of the canceled audit directives. See subsections 4 & 5 below.**
- **The holding of 18 WTD 323, as described below, should be incorporated in the rule.**

3. Additional information: Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

The rule could be made easier to use and understand if it were rewritten to improve its language and structure.

4. Listing of documents reviewed: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):



Appeals Division Decisions (WTDs):

- **Det. No. 93-303, 14 WTD 054 -- Where taxpayer liquidated business, retail sales tax, but not B&O tax, was due on the sale of assets. Both retail sales tax (unless the sale is for resale) and B&O tax apply to the sale of inventory.**
- **Det. No. 97-174ER, 18 WTD 323 -- Where corporate parent had booked transactions with subsidiaries as a loan with interest, the transactions could not also be treated as capital contributions for purposes of applying Rule 106**

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

5. Review Recommendation:

- X **Amend**
- _____ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- _____ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- _____ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

I agree with the recommendations of the prior reviewer, with the substitution of including the holding of 14 WTD 054 in place of Audit Directive 8106.1. In addition, the holding of 18 WTD 323 should also be written into the rule. Finally, the rule's usefulness could be improved by revising the rule's language and structure.

6. Manager action: Date: 5/1/03



___AL___ Reviewed and accepted recommendation

Amendment priority:

___ 1
___ 2
x 3
___ 4